

RESOLUTION NO. 2447

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BONNEY LAKE, PIERCE COUNTY, WASHINGTON EXPRESSING THE INTENT TO ADOPT ORDINANCE D15-44 AMENDING THE CITY'S CRITICAL AREA CODE – TITLE 16 DIVISION II BLMC AND SHORELINE CODE – TITLE 16 DIVISION III AND AUTHORIZING THE SUBMITTAL OF THE PROPOSED AMENDMENTS TO THE WASHINGTON STATE DEPARTMENT OF ECOLOGY.

WHEREAS, in 2005 the Washington State Department of Ecology (Ecology) published a synthesis of scientific information available on freshwater wetlands, their functions, and their management; and

WHEREAS, the purpose of the 2005 synthesis was to provide local governments in the state with the best available science (BAS) when managing their wetland resources; and

WHEREAS, using BAS in making decisions related to critical areas is mandated by the Revised Code of Washington (RCW) 36.70A.172(1); and

WHEREAS, Ecology released an update of the science pertaining to wetland buffers which was sent out for agency and peer review in August 2013 and finalized in October 2013; and

WHEREAS, the *Update on Wetland Buffers: The State of the Science, Final Report* (Washington State Department of Ecology Publication #13-06-11), reflects changes in the scientific information since 2005 and represents the current BAS for wetland buffers; and

WHEREAS, as a result of the updated BAS, Ecology developed a new wetland rating system with decision points that are more scientifically supportable; and

WHEREAS, the City's wetland buffer strategy relies on habitat scores to determine buffer width and as a result of an update the rating systems the City wetland tables need to be adjusted to reflect the new scoring system;

WHEREAS, Ecology's recommended wetland buffer widths are unchanged; and

WHEREAS, the Department of Commerce's (Commerce) *Period Update Checklist for Cities*, specifically requires the City to update its wetland regulations to reflect the new Ecology rating system as part of the required 2015 Comprehensive Plan Periodic Update process; and

WHEREAS, the definition of fish and wildlife conservation areas has been amended to exempt artificial features such as irrigation delivery systems, irrigation

infrastructure, irrigation canals, or drainage ditches that lie within the boundaries of and are maintained by a port district or an irrigation district or company; and

WHEREAS, Commerce's *Period Update Checklist for Cities*, specifically requires the City's to update its definition of fish and wildlife conservation areas to exempt irrigation systems, infrastructure, canals, and drainage ditches as part of the required 2015 Comprehensive Plan Periodic Update process; and

WHEREAS, Ecology conducted a Community Assistance Visit in 2013 to review the City's procedures for administering and enforcing the City's floodplain management regulations; and

WHEREAS, while the City's floodplain management regulations, adopted in Chapter 16.26 of the Bonney Lake Municipal Code (BLMC), were found to be in substantial compliance with the National Flood Insurance Program (NFIP) and the State floodplain regulations, Ecology did identify a few minor deficiencies that needed to be corrected by the City; and

WHEREAS, the City is required to amend the Bonney Lake Shoreline Code to implement the updated critical area regulations within the shoreline jurisdiction; and

WHEREAS, the amendments to the City's floodplain code are identified the *Bonney Lake 2035 Consistency Report* adopted pursuant to Resolution 2379; and

WHEREAS, amendments to the City's floodplain code are identified on the *2015 – 2016 Planning Commission Work Plan* adopted pursuant to Resolution 2423; and

WHEREAS, the City issued a Determination of Non-Significance on March 16, 2015 pursuant to WAC 197-11-340 in order to comply with the requirements of Chapter 43.21C RCW; and

WHEREAS, pursuant to the Growth Management Act - Chapter 36.70A RCW Ordinance D15-44 was provided to the Commerce for the mandatory 60-day review and comment by Commerce and other State agencies; and

WHEREAS, expedited review was requested and granted by Commerce and the review period concluded on March 31, 2015.

WHEREAS, notice of the public hearing was given to the public in accordance with law and a public hearing was held by the Planning Commission on April 8, 2014,

NOW, THEREFORE, BE IT RESOLVED the City Council of the City of Bonney Lake provides Notice of Its Intent to Adopt Ordinance D15-44 attached as Attachment 1 amending the City's Critical Area Code – Title 16 Division II BLMC and Shoreline Code – Title 16 Division III upon approval from the Washington State Department of Ecology.


BE IT FURTHER RESOLVED, the City Council of the City of Bonney Lake authorizes the Community Development Director to submit the proposed amendments to the Washington State Department of Ecology for review and approval.

PASSED by the City Council and approved by the Mayor this 28th day of April, 2015.



Neil Johnson, Mayor

AUTHENTICATED:



Harwood T. Edvalson, MMC, City Clerk

APPROVED AS TO FORM:



Kathleen Haggard, City Attorney



Memo

Date : April 8, 2015
To : Mayor and City Council
From : Grant Sulham, Planning Commission Chair
Re : Ordinance D15-44

A. Wetland Regulations

In 1995, the state's Growth Management Act was amended to added RCW 36.70A.172, which required local governments to use the best available science (BAS) when reviewing and development local policies and regulations related to critical areas. However, when the requirement was enacted there was no comprehensive synthesis or interpretation of the science for wetlands, and most local governments lack the resources to tackle such an undertaking.

In 2005, the state departments of Ecology and Fish and Wildlife, with funding from the U.S. Environmental Protection Agency, initiated a project to develop a comprehensive synthesis of the science for wetlands. The state hired Sheldon and Associates, Inc. and called on staff from the two agencies to produce a two-volume document on the science available on wetlands:

- *Wetlands in Washington - Volume 1: A Synthesis of the Science* (March 2005, Publication #05-06-006) was a synthesis of the science regarding freshwater wetlands.
- *Wetlands in Washington - Volume 2: Guidance for Protecting and Managing Wetlands* (April 2005, Publication #05-06-008) translated the science synthesized in Volume 1 into guidance for local governments protecting and managing wetlands.

Since 2005, the scientific knowledge related to wetlands has continued to increase and as a result Ecology determined that the 2005 synthesis needed to be updated. Much of the information presented in the 2005 publications is still valid, but the research over the last decade has provided new data to expand and clarify many of the conclusions made in the original synthesis. This is especially true for the information on the role of buffers in protecting wetland functions.

To reflect this new scientific research, Ecology issued the *Update on Wetland Buffers: The State of the Science* (Ecology Publication #13-06-011, October 2013). As a result of the new science Ecology established a new wetland rating system with decision points that are more scientifically supportable. Ecology did not make any changes to the required buffer widths currently used by the City.

To address these changes, two amendments are proposed to the City's wetland regulations codified in Chapter 16.22 of the Bonney Lake Municipal Code (BLMC). One proposed amendment will amend BLMC 16.22.020 to change the date and publication number of the wetland rating manual required to be used wetland biologists. The other amendment will change the habitat scores in the wetland buffer table, in BLMC 16.22.040, to reflect the change from a scoring system that had a range of 0 to 29 points for habitat to a system that now has a range of 3 to 9 points for habitat. Finally, there is one housekeeping amendment in the mitigation section, in BLMC 16.22.050, related to the citation of Ecology publications.

B. Floodplain Regulations

Ecology conducted a Community Assistance Visit in 2013 to review the City's procedures for administering and enforcing the City's floodplain management regulations. While the City's floodplain management regulations, adopted in Chapter 16.26 BLMC, were found to be in substantial compliance with the National Flood Insurance Program (NFIP) and the State floodplain regulations, Ecology did identify the following minor deficiencies that needed to be corrected by the City:

- The date of the Flood Insurance Rate Maps (FIRMs) was not reference correctly in BLMC 16.26.030.B and the physical address where the FIRMs can be found was missing.
- The building permit review section, BLMC 16.26.060.E, was missing the mandatory language that failure to elevate at least two feet above the highest adjacent grade in these zones may result in higher insurance rates.
- The section concerning nonresidential construction, BLMC 16.26.060.F, was missing language regarding the impact of floodproofing on flood insurance rates.
- The section concerning below-grade crawlspaces, BLMC 16.26.080, was missing mandatory language regarding the impact of failing to seal ductwork would have on insurance premiums.

C. Fish and Wildlife Habitat Conservation Areas.

In 2012, the definition of fish and wildlife conservation areas, in RCW 36.70A.030(5) was amended to exempt artificial features such as irrigation delivery systems, irrigation infrastructure, irrigation canals, or drainage ditches that lie within the boundaries of and are maintained by a port district or an irrigation district or company.

The proposed amendment would incorporate this new exemption into the City's designation of fish and wildlife conservation areas in BLMC 16.30.010.

D. Shoreline Code

Since the City's Shoreline Code adopts the City's Critical Areas Code by reference as required by the Shoreline Management Act, the City must also amend the adoption reference in BLMC 16.36.060 to reflect the amendments to the Critical Areas Code.

The Planning Commission finds that the proposed amendment in Ordinance D15-44 will ensure consistency between the state law and the Bonney Lake Municipal Code.

On April 8, 2015, the Planning Commission held a public hearing on Ordinance D15-44 which amends the City's critical areas code and shoreline code and voted 7-0-0 to recommend that the City Council adopt Ordinance D15-44. Comments from the public were neither made at the public hearing nor submitted in writing to the City.

ORDINANCE NO. D15-44

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BONNEY LAKE, PIERCE COUNTY, WASHINGTON, AMENDING PORTIONS OF TITLE 16 DIVISION II (CRITICAL AREAS) AND TITLE 16 DIVISION III (SHORELINE CODE) OF THE BONNEY LAKE MUNICIPAL CODE RELATED TO REGULATION OF WETLANDS, FLOODPLAINS, AND FISH AND WILDLIFE CONSERVATION AREAS.

WHEREAS, in 2005 the Washington State Department of Ecology (Ecology) published a synthesis of scientific information available on freshwater wetlands, their functions, and their management; and

WHEREAS, the purpose of the 2005 synthesis was to provide local governments in the state with the best available science (BAS) when managing their wetland resources; and

WHEREAS, using BAS in making decisions related to critical areas is mandated by the Revised Code of Washington (RCW) 36.70A.172(1); and

WHEREAS, Ecology released an update of the science pertaining to wetland buffers which was sent out for agency and peer review in August 2013 and finalized in October 2013; and

WHEREAS, the *Update on Wetland Buffers: The State of the Science, Final Report* (Washington State Department of Ecology Publication #13-06-11) reflects changes in the scientific information since 2005 and represents the current BAS for wetland buffers; and

WHEREAS, as a result of the updated BAS, Ecology developed a new wetland rating system with decision points that are more scientifically supportable; and

WHEREAS, the City's wetland buffer strategy relies on habitat scores to determine buffer width and as a result of an update the rating systems the City wetland tables need to be adjusted to reflect the new scoring system;

WHEREAS, Ecology's recommended wetland buffer widths are unchanged; and

WHEREAS, the Department of Commerce's (Commerce) *Period Update Checklist for Cities*, specifically requires the City to update its wetland regulations to reflect the new Ecology rating system as part of the required 2015 Comprehensive Plan Periodic Update process; and

WHEREAS, the definition of fish and wildlife conservation areas has been amended to exempt artificial features such as irrigation delivery systems, irrigation infrastructure, irrigation canals, or drainage ditches that lie within the boundaries of and are maintained by a port district or an irrigation district or company; and

WHEREAS, Commerce's *Period Update Checklist for Cities*, specifically requires the City's to update its definition of fish and wildlife conservation areas to exempt irrigation systems,

infrastructure, canals, and drainage ditches as part of the required 2015 Comprehensive Plan Periodic Update process; and

WHEREAS, Ecology conducted a Community Assistance Visit in 2013 to review the City's procedures for administering and enforcing the City's floodplain management regulations; and

WHEREAS, while the City's floodplain management regulations, adopted in Chapter 16.26 of the Bonney Lake Municipal Code (BLMC), were found to be in substantial compliance with the National Flood Insurance Program (NFIP) and the State floodplain regulations, Ecology did identify a few minor deficiencies that needed to be corrected by the City; and

WHEREAS, the City is required to amend the Bonney Lake Shoreline Code to implement the updated critical area regulations within the shoreline jurisdiction; and

WHEREAS, as part amendments to the City's floodplain code are identified the *Bonney Lake 2035 Consistency Report* adopted pursuant to Resolution 2379; and

WHEREAS, amendments to the City's floodplain code are identified on the *2015 – 2016 Planning Commission Work Plan* adopted pursuant to Resolution 2423; and

WHEREAS, the City issued a Determination of Non-Significance on March 16, 2015 pursuant to WAC 197-11-340 in order to comply with the requirements of Chapter 43.21C RCW; and

WHEREAS, pursuant to the Growth Management Act - Chapter 36.70A RCW this Ordinance was provided to the Commerce for the mandatory 60-day review and comment period by Commerce and other State agencies; and

WHEREAS, expedited review was requested and granted by Commerce and the review period concluded on March 31, 2015.

WHEREAS, notice of the public hearing was given to the public in accordance with law and a public hearing was held by the Planning Commission on April 8, 2014,

NOW THEREFORE, the City Council of Bonney Lake, Washington, do ordain as follows:

Section 1. Section 16.21.020, "Rating" of the Bonney Lake Municipal Code and Ordinance Nos. 1491 § 21 are each hereby amended to read as follows:

16.22.020 Rating.

Wetlands shall be rated Category I, II, III, or IV according to the Department of Ecology's "~~2004~~ 2014 Washington State Wetland Rating System for Western Washington" (Publication No. ~~04-06-014~~ 14-06-29) as presently constituted or as may be subsequently amended. Wetland categories shall apply to the wetland as it exists on the date the city

adopts the rating system, as the wetland naturally changes thereafter, or as the wetland changes in accordance with permitted activities. Wetland rating categories shall not change due to illegal modifications.

Section 2. Section 16.22.040, “Substantive requirements” of the Bonney Lake Municipal Code and Ordinance Nos. 1491 § 22 are each hereby amended to read as follows:

16.22.040 Substantive requirements.

In addition to the substantive requirements of BLMC 16.20.130, the following requirements shall apply to developments (see definitions) in wetlands except as exempted above:

- A. The higher the wetland category (Category I is highest), the greater shall be the emphasis on higher-priority “sequencing” methods per BLMC 16.20.130(E).
- B. The following table establishes the standard buffer width that shall apply to each wetland category, depending on the intensity of the potential land use on the upland side of the buffer and the habitat score of the wetland as determined on the Wetland Rating Form for Western Washington Version 2, as presently constituted or as may be subsequently amended, completed by a qualified professional.

Overall Wetland Rating	Habitat Score-Wetland Characteristics	Intensity land use on the upland side of the buffer		
		High ¹	Moderate ²	Low ³
Category I	29—36 points-Habitat <u>Score of 8 – 9 points.</u>	300 feet	225 feet	150 feet
Category I	20—28 points-Habitat <u>Score of 5 – 7 points.</u>	150 feet	110 feet	75 feet
Category I	<u>Water Quality Score of 8 – 9 points and a Habitat Score of less than 5 points</u>	100 feet	75 feet	50 feet
Category I	19 points or less Wetlands <u>that do not meet the characteristics described above for Category I wetlands.</u>	100 feet	75 feet	50 feet

Overall Wetland Rating	Habitat Score-Wetland Characteristics	Intensity land use on the upland side of the buffer		
		High ¹	Moderate ²	Low ³
Category II	29—36 points <u>Habitat Score of 8 – 9 points.</u>	300 feet	225 feet	150 feet
Category II	20—28 points <u>Habitat Score of 5 – 7 points.</u>	150 feet	110 feet	75 feet
<u>Category II</u>	<u>Water Quality Score of 8 – 9 points and a Habitat Score of less than 5 points</u>	<u>100 feet</u>	<u>75 feet</u>	<u>50 feet</u>
Category II	19 points <u>Wetlands that do not meet the characteristics described above for Category II wetlands.</u>	100 feet	75 feet	50 feet
<u>Category III⁴</u>	<u>Habitat Score of 8 – 9 points.</u>	<u>300 feet</u>	<u>225 feet</u>	<u>150 feet</u>
Category III ⁴	20 points <u>Habitat Score of 5-7 points.</u>	150 feet	110 feet	75 feet
Category III ⁴	19 points or less <u>Habitat Score of 3 – 4 points.</u>	80 feet	60 feet	40 feet
Category IV ⁴	0 points or greater <u>Scores for all 3 basic functions are less than 16 points.</u>	50 feet	40 feet	25 feet
¹ High intensity land uses include commercial, industrial, and retail developments; institutional use; residential developments at more than one unit per acre; high intensity recreation areas (golf course, ball fields, etc.); and hobby farms. ² Moderate intensity land uses include residential developments at less than one unit per acre; moderate intensity open space (parks with biking, jogging, etc.); paved trails and utility corridors with maintenance roads. ³ Low intensity land uses include low intensity open space (hiking, bird-watching, preservation of natural resources, etc.); unpaved trails and utility corridors without maintenance roads. ⁴ For exemption of wetlands under 1,000 square feet see BLMC 16.20.070(S).				

C. Buffers shall be measured from the wetland boundary as surveyed in the field. These buffer widths presume that healthy native plant communities dominate the buffer. If

wetland enhancement is proposed, the category of the wetland after enhancement shall pertain.

- D. Buffers shall be measured from the wetland boundary as surveyed in the field. If wetland enhancement is proposed, the category of the wetland after enhancement shall pertain.
- E. The director(s) may increase the required buffer width and/or require buffer enhancement if a wetland professional determines that the wetland provides habitat for wildlife species that require greater protection than the standard buffer, or the buffer lacks healthy native vegetation or is otherwise handicapped in its ability to protect the wetland. Said determination shall take into account the score derived from the Wetland Rating System and such factors as topography, land use, and past disturbance.
- F. The director(s) may reduce the standard buffer width if the function(s) served by the particular wetland needs less buffer width, as indicated by a wetland functional analysis.
- G. Except as provided elsewhere in this critical areas code, all existing native vegetation in wetland buffers shall be retained without disturbance, mowing, or hard surfacing, nor shall any action be taken to inhibit volunteer regrowth of native vegetation. Invasive weeds shall be removed for the duration of any mitigation bond. Stormwater management facilities and bioswales are permitted in the outer 25 percent of the buffer of Category III or IV wetlands provided wetland functions and values are not significantly lost through fluctuations in wetland hydrology and construction integrates best management practices.

Section 3. Section 16.26.030, “Mitigation” of the Bonney Lake Municipal Code and the corresponding portion of Ordinance Nos. 1491 § 23 are each hereby amended to read as follows:

16.22.050 Mitigation.

- A. Mitigation for alterations to wetlands may be satisfied by restoring former wetlands, creating wetlands, or enhancing degraded wetlands, consistent with the Wetland Mitigation in Washington State – Parts 1 and 2 ~~(2006)~~ (Washington State Department of Ecology Publication No. 06-06-011a and 06-06-011b) or as revised.
- B. Mitigation shall generally replace wetland functions lost from the altered wetland except that the city may permit out-of-kind replacement when the lost functions are minimal or less important to the drainage basin than the functions that the mitigation action seeks to augment.
- C. Mitigation shall be in the same drainage basin as the altered wetland. Wetland mitigation shall be in the same sub-basin unless a higher level of ecological functioning would result from an alternate approach.

- D. Mitigation projects shall be completed as quickly as possible consistent with such factors as rainfall and seasonal sensitivity of fish, wildlife, and flora.
- E. Mitigation projects shall be designed utilizing ~~Washington State Department of Ecology Publication No. 06-06-011a: Wetland Mitigation in Washington State – Parts 1 and 2 (2006)~~ (Washington State Department of Ecology Publication No. 06-06-011a and 06-06-011b) or as revised.
- F. Compensatory mitigation shall be determined using the methodology established in ~~Department of Ecology Publication No. 10-06-01: Calculating Credits and Debits for Compensatory Mitigation in Wetlands of Western Washington (2012)~~ (Washington Department of Ecology Publication No. 10-06-01); or the mitigation ratios found in ~~Wetland Mitigation in Washington State – Parts 1 and 2 (2006)~~ (Washington State Department of Ecology Publication No. 06-06-011a and 06-06-011b) as revised.
- G. Credits granted from a certified wetland mitigation bank shall be consistent with the bank's certification and service area.
- H. The applicant shall provide an as-built plan of the mitigation site and monitor the site in accordance with BLMC 16.20.110(G).

Section 4. Section 16.26.030, “General Provisions” of the Bonney Lake Municipal Code and the corresponding portion of Ordinance Nos. 1301 § 5 are each hereby amended to read as follows:

16.26.030 General provisions.

- A. Lands to Which This Chapter Applies. This chapter shall apply to all special flood hazards areas within the jurisdiction of the city of Bonney Lake.
- B. Basis for Establishing Special Flood Hazard Areas. The special flood hazard areas identified by the Federal Insurance Administration in a scientific and engineering report entitled “The Flood Insurance Study for the City of Bonney Lake” dated November, 1979, and any subsequent revisions, with an accompanying Flood Insurance Rate Map (FIRM) dated May 1, 1980, and any subsequent revisions, are adopted by reference and declared to be a part of this chapter. The Flood Insurance Study and the FIRM are on file at the office of the city clerk located at 9002 Main St. E, Bonney Lake, WA. The best available information for flood hazard area identification as outlined in BLMC 16.26.040(D) shall be the basis for regulation until a new FIRM is issued that incorporates data utilized under that section.
- C. Penalties for Noncompliance. No structure or land shall hereafter be constructed, located, extended, converted, or altered without full compliance with the terms of this chapter and other applicable regulations. Violations of the provisions of this chapter by failure to comply with any of its requirements shall constitute a misdemeanor,

punishable in accordance with Chapter 1.16 BLMC, including violations of conditions and safeguards established in connection with conditions. Nothing shall prevent the city from taking such other lawful action as is necessary to prevent or remedy any violation.

- D. Abrogation and Greater Restrictions. This chapter is not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this chapter and another, easement, covenant, or deed restriction conflict or overlap, whichever imposes the more stringent restrictions shall prevail.
- E. Interpretation. In the interpretation and application of this chapter, all provisions shall be:
 - 1. Considered as minimum requirements;
 - 2. Liberally construed in favor of the governing body; and
 - 3. Deemed neither to limit nor repeal any other powers granted under state statutes.
- F. Warning and Disclaimer of Liability. The degree of flood protection required by this chapter is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by man-made or natural causes. This chapter does not imply that land outside the special flood hazards areas or uses permitted within such areas will be free from flooding or flood damages. This chapter shall not create liability on the part of the city, any officer or employee of the city, or the Federal Insurance Administration, for any flood damages that result from reliance on this chapter or any administrative decision lawfully made in accordance with this chapter.

Section 5. Section 16.26.030, “General standards for flood hazard reduction” of the Bonney Lake Municipal Code and the corresponding portion of Ordinance Nos. 1301 § 5 are each hereby amended to read as follows:

16.26.060 General standards for flood hazard reduction.

In all special flood hazards areas, the following standards are required:

- A. Anchoring.
 - 1. All new construction and substantial improvements shall be anchored to prevent flotation, collapse, or lateral movement of the structure.
 - 2. All manufactured homes shall be anchored to prevent flotation, collapse, or lateral movement, and shall be installed using methods and practices that

minimize flood damage. Anchoring methods may include, but are not limited to, use of over-the-top or frame ties to ground anchors.

B. Construction Materials and Methods.

1. All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage.
2. All new construction and substantial improvements shall be constructed using methods and practices that minimize flood damage.
3. Electrical, heating, ventilation, plumbing, and air-conditioning equipment and other service facilities shall be designed and/or otherwise elevated or located so as to prevent water from entering or accumulating within the components during conditions of flooding.

C. Utilities.

1. All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the systems;
2. Water wells shall be located on high ground that is not in the floodway;
3. New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters; and
4. On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.

D. Subdivision and Multifamily Proposals.

1. All subdivision proposals shall be consistent with the need to minimize flood damage;
2. All subdivision proposals shall have public utilities and facilities, such as sewer, gas, electrical, and water systems located and constructed to minimize or eliminate flood damage;
3. All subdivision proposals shall have adequate drainage provided to reduce exposure to flood damage;
4. Where base flood elevation data has not been provided or is not available from another authoritative source, it shall be generated for subdivision proposals and

other proposed developments that contain at least 50 lots or five acres, whichever is less;

5. Density calculations shall not include floodways or special flood hazard areas.

E. Review of Building Permits. Where elevation data is not available either through the Flood Insurance Study, FIRM, or from another authoritative source (BLMC 16.26.040(D)), applications for building permits shall be reviewed to assure that proposed construction will be reasonably safe from flooding. The test of reasonableness is a local judgment and includes use of historical data, high water marks, photographs of past flooding, etc., where available. Failure to elevate at least two feet above the highest adjacent grade in these zones may result in higher insurance rates.

F. Specific Standards. In all special flood hazards areas where base flood elevation data has been provided as set forth in BLMC 16.26.030(B), Basis for Establishing Special Flood Hazard Areas, or BLMC 16.26.040(D), Use of Other Base Flood Data, the following criteria apply:

1. Residential Construction.

- a. New construction and substantial improvement of any residential structure shall have the lowest floor, including basement, elevated one foot or more above the base flood elevation (BFE).
- b. Fully enclosed areas below the lowest floor that are subject to flooding are prohibited, or shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a registered professional engineer or architect or must meet or exceed the following minimum criteria:
 - i. A minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided.
 - ii. The bottom of all openings shall be no higher than one foot above grade.
 - iii. Openings may be equipped with screens, louvers, or other coverings or devices; provided, that they permit the automatic entry and exit of floodwaters.

2. Nonresidential Construction. New construction and substantial improvement of any commercial, industrial or other nonresidential structure shall either have the

lowest floor, including basement, elevated one foot or more above the base flood elevation; or, together with attendant utility and sanitary facilities, shall:

- a. Be floodproofed so that below one foot or more above the base flood level the structure is watertight with walls substantially impermeable to the passage of water;
 - b. Have structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy;
 - c. Be certified by a registered professional engineer or architect that the design and methods of construction are in accordance with accepted standards of practice for meeting provisions of this subsection based on their development and/or review of the structural design, specifications and plans. Such certifications shall be provided to the official as set forth in BLMC 16.26.040(E)(2);
 - d. Nonresidential structures that are elevated, not floodproofed, must meet the same standards for space below the lowest floor as described in subsection (F)(1)(b) of this section.
 - e. Nonresidential buildings that are floodproofed will have flood insurance premiums based on rates that are one foot below the floodproofed level.
3. **Manufactured Homes.** All manufactured homes in the floodplain to be placed or substantially improved on sites shall be elevated on a permanent foundation such that the lowest floor of the manufactured home is elevated one foot or more above the base flood elevation and is securely anchored to an adequately anchored foundation system to resist flotation, collapse and lateral movement.
 4. **Recreational Vehicles.** Recreational vehicles placed on sites are required to either:
 - a. Be on the site for fewer than 180 consecutive days;
 - b. Be fully licensed and ready for highway use, on wheels or jacking system, attached to the site only by quick disconnect type utilities and security devices, and have no permanently attached additions; or
 - c. Meet the requirements of subsection (F)(3) of this section and the elevation and anchoring requirements for manufactured homes.

G. **AE and A1 – A30 Zones with Base Flood Elevations But No Floodways.** In areas with base flood elevations, but a regulatory floodway is not designated, no new construction,

substantial improvements, fill, or other development shall be permitted within Zones A1 – A30 and AE on the community's FIRM, unless it is demonstrated that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one foot at any point within the community.

H. Floodways (Also See Chapter 86.16 RCW). Located within special flood hazard areas established in BLMC 16.26.030(B) are areas designated as floodways. Since the floodway is an extremely hazardous area due to the velocity of floodwaters that can carry debris, and increase erosion potential, the following provisions apply:

1. Encroachments are prohibited. This includes fill, new construction, substantial improvements, and other development unless certification by a registered professional engineer is provided demonstrating through hydrologic and hydraulic analyses performed in accordance with standard engineering practice that the proposed encroachment would not result in any increase in flood levels during the occurrence of the base flood discharge.
2. Construction or reconstruction of residential structures is prohibited within designated floodways, except for:
 - a. Repairs, reconstruction, or improvements to a structure that do not increase the ground floor area; and
 - b. Repairs, reconstruction or improvements to a structure, the cost of which does not exceed 50 percent of the market value of the structure either:
 - i. Before the repair or reconstruction is started; or
 - ii. If the structure has been damaged, and is being restored, before the damage occurred. Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications identified by the local code enforcement official and are the minimum necessary to assure safe living conditions, or to structures identified as historic places, may be excluded in the 50 percent.
3. If subsection (H)(1) of this section is satisfied, all new construction and substantial improvements shall comply with all applicable flood hazard reduction provisions of this section, provisions for flood hazard reduction.

Section 6. Section 16.26.080, "Requirements for below-grade crawlspaces" of the Bonney Lake Municipal Code and the corresponding portion of Ordinance Nos. 1301 § 5 are each hereby amended to read as follows:

16.26.080 Requirements for below-grade crawlspaces.

Below-grade crawlspaces are allowed if, in addition to the above requirements, the following requirements are met:

- A. The interior grade of a crawlspace below the BFE must not be more than two feet below the lowest adjacent exterior grade (LAG), shown as D in Figure 3 of Bulletin 11-01.
- B. The height of the below-grade crawlspace, measured from the interior grade of the crawlspace to the top of the crawlspace foundation wall must not exceed four feet at any point; this is illustrated and shown as L in Figure 3. The height limitation is the maximum allowable unsupported wall height according to the engineering analyses and building code requirements for flood hazard areas. Also see the section Guidance for Pre-Engineered Crawlspaces on page 7 of this Bulletin 11-01.
- C. Adequate drainage must be supplied that removes floodwaters from the interior areas of the crawlspace. The enclosed area should be drained within a reasonable time after a flood event. The type of drainage system will vary because of the site gradient and other drainage characteristics, such as soil types. Possible options include natural drainage through porous, well-drained soils and drainage systems such as perforated pipes, drainage tiles, or gravel or crushed stone drainage by gravity or mechanical means.
- D. The velocity of floodwaters at the site should not exceed five feet per second for any crawlspace. For velocities in excess of five feet per second, other foundation types should be used.
- E. Ductwork shall either be placed above the BFE or sealed to prevent the entry of floodwaters.
- F. Buildings that have below-grade crawlspaces will have higher flood insurance premiums that buildings that have the interior elevation at or above the lowest adjacent exterior grade. For additional information refer to FEMA Technical Bulletin 11.

Section 7. Section 16.30.010, "Designation" of the Bonney Lake Municipal Code and the corresponding portion of Ordinance Nos. 1070 § 2 are each hereby amended to read as follows:

16.30.010 Designation.

Habitat conservation areas include:

- A. Areas having a primary association with fish and wildlife species identified by the U.S. Fish and Wildlife Service and the National Marine Fisheries Service as being in danger of extinction or threatened to become endangered;

- B. Areas having a primary association with fish and wildlife species identified by the Washington Department of Fish and Wildlife as being in danger of extinction, threatened to become endangered, vulnerable, or declining and are likely to become endangered or threatened in a significant portion of their range within the state without cooperative management or removal of threats. See WAC 232-12-014 (state endangered species) and WAC 232-12-011 (state threatened and sensitive species);
- C. State priority habitats as identified by the State Department of Fish and Wildlife;
- D. Habitats and species of local importance as identified by the city in accordance with BLMC 16.30.020;
- E. Waters of the state, including lakes, rivers, ponds, streams, inland waters, underground waters, salt waters, and all other surface waters and watercourses within the jurisdiction of the state of Washington, as classified in WAC 222-16-031;
- F. Ponds under 20 acres that provide fish or wildlife habitat except for:
 - 1. artificial ponds created for a nonwildlife purpose such as stormwater detention facilities, wastewater treatment facilities, farm ponds, and temporary construction ponds; and
 - 2. artificial features such as irrigation delivery systems, irrigation infrastructure, irrigation canals, or drainage ditches that lie within the boundaries of and are maintained by a port district or an irrigation district or company.
- G. Lakes, ponds, streams, and rivers planted with game fish by a governmental or tribal entity;
- H. Natural area preserves and natural resource conservation areas as defined by the Washington State Department of Natural Resources;
- I. Areas of rare plant species and high quality ecosystems as identified by the Washington State Department of Natural Resources through the Natural Heritage Program (see Chapter 79.70 RCW); and
- J. Land useful or essential for preserving connections between habitat blocks and open spaces.

Section 8. Section 16.36.060, “C” of the Bonney Lake Municipal Code and the corresponding portion of Ordinance Nos. 1491 § 6 are each hereby amended to read as follows:

16.36.060 “C.”

“City” means the city of Bonney Lake, Washington.

“Clearing” means the destruction or removal of vegetation groundcover, shrubs and trees including root material removal and topsoil removal.

“Commercial use” means uses are those that sell goods and/or services directly to the consumer.

“Covered moorage” means boat moorage, with or without walls, that has a roof to protect the vessel.

“Critical areas code” means the city of Bonney Lake’s critical areas code codified in Chapters 16.20 through 16.30 BLMC adopted by Ordinance Numbers 1070 (2004), 1189 (2006), 1252 (2007), 1301 (2009), 1325 (2009), ~~and 1491 (2014)~~, and D15-44 (2015).

Section 9. Severability. If any one or more section, subsection, or sentence of this ordinance is held to be unconstitutional or invalid, such decision shall not affect the validity of the remaining portion of this ordinance and the same shall remain in full force effect.

Section 10. Effective Date. This ordinance shall take effect five (5) days after its passage, approval and publication as required by law.

PASSED BY THE CITY COUNCIL this _____ day of _____, 2015.

Neil Johnson, Jr., Mayor

AUTHENTICATED:

Harwood T. Edvalson, MMC, City Clerk

APPROVED AS TO FORM:

Kathleen Haggard, City Attorney

City of Bonney Lake, Washington
City Council Agenda Bill (AB)

Department/Staff Contact: Community Development/ Jason Sullivan – Senior Planner	Meeting/Workshop Date: April 28, 2015	Agenda Bill Number: AB15-43
Agenda Item Type: Resolution	Ordinance/Resolution Number: 2447	Councilmember Sponsor: Donn Lewis

Agenda Subject: Amendments to the City’s Critical Areas Code and Shoreline Code – Notice of Intent to Adopt

Full Title/Motion: A Resolution of the City Council of the City Of Bonney Lake, Pierce County, Washington, expressing the intent to adopt Ordinance D15-44 amending portions of Title 16 Division II (Critical Areas) and Title 16 Division III (Shoreline Code) of the Bonney Lake Municipal Code related to regulation of wetlands, floodplains, and fish and wildlife conservation areas.

Administrative Recommendation:

Background Summary: The proposed amendments are relate to the new rating system for wetlands, minor housekeeping amendments to the floodplain management regulations, the designation of fish and wildlife conservation areas, and to the shoreline code to incorporate the amendments to the critical areas code. The proposed amendment to the wetland rating system will not modify the City’s adopted wetland buffers for each category of wetland. These proposed amendments are required to bring the City into compliance with state law. A complete discussion of each amendment is provided in the attached Planning Commission recommendation memo.

Since the ordinance amends the City’s shoreline regulations, the City is required to first pass a resolution that serves as a Notice of Intent to Adopt. This resolution and a copy of Ordinance D15-44 will be sent to Ecology for review and approval prior to City Council action on the ordinance.

The proposed amendments to the wetland rating system and the definition of fish and wildlife habitat is required as part of the 2015 Comprehensive Plan Periodic Update process pursuant to the Department of Commerce’s *Period Update Checklist for Cities*.

The proposed amendments to the floodplain management regulations were identified as mandatory changes in the *Bonney Lake 2035: 2015 Comprehensive Plan Periodic Update – Consistency Report* which was adopted by the City Council pursuant to Resolution 2379 and is identified in the *2015 – 2016 Planning Commission Work Plan* adopted pursuant to Resolution 2423.

The amendment to the Shoreline Code is required to incorporate the amendments into the shoreline regulations as the City adopts the critical areas code by reference to regulate these areas within the shoreline jurisdiction.

Attachments: Resolution 2447, Ordinance D15-44, and Planning Commission Recommendation Memo

BUDGET INFORMATION

Budget Amount	Current Balance	Required Expenditure	Budget Balance
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Budget Explanation:

COMMITTEE, BOARD & COMMISSION REVIEW

Council Committee Review:

Date:

Approvals:

Chair/Councilmember

Councilmember

Councilmember

Yes No

Forward to:

Consent Agenda: ☒ Yes ☐ No**Commission/Board Review:** Planning Commission – March 18, 2015 and April 8, 2015**Hearing Examiner Review:**

COUNCIL ACTION

Workshop Date(s): April 21, 2015

Public Hearing Date(s):

Meeting Date(s):

Tabled to Date:

APPROVALS

Director:*John P. Vodopich, AICP***Mayor:****Date Reviewed****by City Attorney:**
(if applicable):